

is that "AT&T's competitors...will be forced to comply with the law by filing specific rates, and compete with AT&T on even terms" (Application at 18). AT&T's argument assumes that nondominant carriers are acting illegally by conforming their tariffs to the rules promulgated by the Commission governing such tariffs, and then assumes that because these other carriers are acting illegally any burden required for them to conform their behavior to their obligations of the Act should be ignored.

The difficulty with this argument is that it begs the question. The test for a stay requires that "harm" to other parties be measured separately from the question of the legality of the Commission's action. Instead, AT&T here assumes, in effect, that because the Commission's decision is so patently in error, AT&T need not discuss the issue of harm at all.

While AT&T is plainly incorrect, its reluctance to discuss harm is certainly understandable. As already discussed, the stay sought by AT&T would require massive tariff filings for hundreds of thousands of individual deals made by hundreds of carriers with different customers. For the most part, the entities involved are ill-prepared and ill-equipped to confront the problems that would result from the inauguration of a Commission practice that all carriers, including resellers, must file specific rates for every single arrangement into which they have entered. The harm from such a course is palpable. It will require a shift of carrier effort and resources from competing with AT&T to meeting regulatory obligations never before imposed on most of these carriers. The likely result--particularly in the short term--would be chaotic regulatory conditions and

increased uncertainly in the marketplace which AT&T may (as it has in the past) seek to exploit (see, e.g., Sprint's Amicus Brief in File No. 89-297 at 2-3 explaining AT&T's fear-mongering campaign to disrupt the business relationships between Sprint, MCI and Wiltel and their customers).

V. THE PUBLIC INTEREST REQUIRES THAT THE REQUESTED STAY BE DENIED.

AT&T argues that a stay of the August 18 Order would be in the public interest because unless nondominant carriers are required to file in their tariffs the detailed rate information sought by AT&T, the Act's proscription against unreasonable and unjustly discriminatory rates could not be enforced (Application at 19). AT&T's argument here is totally without merit. It ignores the fundamental fact that because of their lack of market power, nondominant carriers are hardly in the position to engage in any action condemned by Sections 201(b) and 202(a) of the Act. Indeed, despite the fact that AT&T has filed two counterclaims against Sprint before the Commission (File Nos. E-90-113C and E-91-63) challenging Sprint's maximum rate tariff provisions and a redundant complaint in federal district court, it has never accused Sprint of charging unreasonable and unjustly discriminatory rates pursuant to such tariffs.

In any case, the Commission has found that its modification of the tariff content requirements for nondominant carriers will not interfere with its ability to ensure that such carriers do not evade the Act's requirements for reasonable and not unjustly discriminatory rates (August 18 Order at para. 33). The Commission also has found that the reduction in the tariff

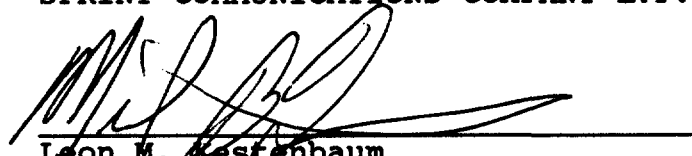
content requirements for nondominant carriers will promote "competition by enabling these carriers to respond immediately to changed market conditions" (id. at para. 32). These findings, together with the fact that, as demonstrated above, a stay would place substantial burdens upon the nondominant carriers (not to mention the Commission's resources) which more than outweighs any alleged injury to AT&T from the continuation of the rules, conclusively demonstrate that the public interest is enhanced by the Commission's decision to reduce the tariff content requirements for nondominant carriers.

VI. CONCLUSION.

For the reasons set forth above, Sprint respectfully requests that AT&T's application for stay be denied.

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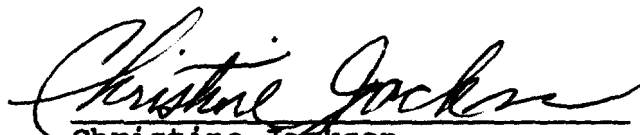
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